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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,094	07/25/2003	Mark Hoffman	S01398.70004.US	4257
7590	05/04/2005		EXAMINER MULLEN, THOMAS J	
Lawrence M. Green Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			ART UNIT 2632	PAPER NUMBER

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,094

Applicant(s)

HOFFMAN ET AL.

Examiner

Thomas J. Mullen, Jr.

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/25/03. — 3 pages
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The patent number associated with prior copending applications 09/284,598, 08/881,054 and 08/786,411 should be inserted on page 1 of the specification in the appropriate place.

2. The drawings are objected to because:

in Fig. 8A, first column, second row, "PROTABLE" should be --PORTABLE--;

in Fig. 8A, first column, fourth row ("Situation 2"), it appears that "portable signaling unit 20" should be --remote alarm switch unit 40-- (note the description in the block to the right of this block);

in Fig. 8A, last column, second row, "Cordinates" should be --Coordinates--; and

in Fig. 8B, second column, next-to-last row, "predetermened" should be --predetermined--, and "present" should be --preset--.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Clise et al (US 5797091, effective date 3/7/95).

Note in Clise et al, personal communicator 10; radio towers 20; and private/public response centers 22,26; to provide a personal communication system enabling "communication between an individual and another entity such as a communications center, a portable communications facility, (or) another personal communicator" (col. 1, lines 49-53). Personal communicator 10 (Figs. 2-4) includes: position location circuit 42, which includes GPS receiver 80 for interacting with GPS satellites 100 (Fig. 5); microphone 88, which is an "audio input circuit to permit user entry of audio data" (col. 2, lines 11-12), in particular to provide the user with an "alternative form of generating position data" (see the Abstract, lines 3-4 and col. 7, lines 10-11); transmitter 44; receiver 46; antenna 48; sound generator 50; display 16; microprocessor 52; and command buttons 12, including at least one "emergency" button (such as button 12a in Fig. 3, labeled "911") and at least one "non-emergency" button (see col. 1, lines 64-67, and col. 4, next-to-last line to col. 5, line 50). The private/public response centers 22,26 are in communication with various emergency response entities such as "the police, fire department, or ambulance" (col. 3, lines 27-28), and are in communication with personal communicator 10 via the radio towers 20 (Fig. 1), the response centers 22,26 being capable of "monitor(ing) a plurality of personal communicators 10" (col. 3, lines 10-11). The response centers 22,26 are described as an "other entity" which may remotely "operate", "command", "control", or "activate" the personal communicator 10 (see the Abstract, next-to-last sentence; col. 2, lines 18 and 57-58; col. 3, lines 65-66; col. 4, lines 50-51 and 62-64; and col. 9, lines 10-28). In addition, Clise et al teaches (col. 8, lines 39-51) that transmitter 44 is a "CDPD transmitter"; that receiver 46 is a "CDPD receiver"; that radio towers 20 (Figs. 1 and 5) are "part of the cellular data system"; and that the transmitter 44 and receiver 46 may be the "transmitter and receiver portions...of a...cellular telephone" (col. 8, lines 63-65).

Thus, Clise et al teaches a personal security and tracking system as in claim 1 and a method of locating a portable signaling unit as in claim 2, wherein the "portable signaling unit" 10 transmits a CDPD signal having "position information" (obtained from GPS receiver 80) to the "cellular telephone system" 20; the cellular telephone system 20 "re-transmits" the CDPD signal to the "central dispatch station" 22,26; the central dispatch station 22,26 implicitly

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"determin(es)...a location of the portable signaling unit (10)" based on the received "position information"; and the central dispatch station 22,26 "transmit(s) a control signal", via the cellular telephone system 20, to the portable signaling unit 10, for controlling functions of the portable signaling unit (such as activating the sound generator 50 or overriding the functions of the buttons 12), to thereby provide "two-way digital communication between the portable signaling unit (10) and the dispatch station (22,26)".

5. Claims 1-2 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-2 of copending Application No. 10/600,733. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

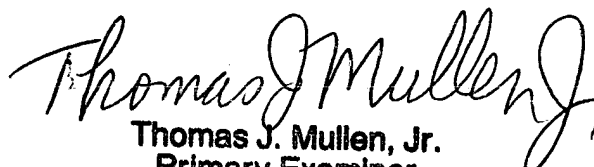
The art cited by applicant (and the content of copending applications 09/284,598 and 10/600,733) has been considered. Morgan et al (US 2001/34573--eff. date 8/18/97) discloses an emergency communication system employing a CDPD modem (84--see Fig. 2 and paragraphs 55 and 83). Layson (US 5731757) and Gaukel (US 6072396--eff. date no later than 4/24/97) are cited to further show the state of the art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

TJM


Thomas J. Mullen, Jr.
Primary Examiner
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